

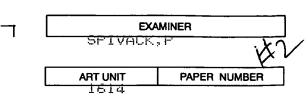
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | | ATTORNEY DOCKET NO. |
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WILLIAM J MCNICHOL JR REED SMITH SHAW & MCCLAY 2500 ONE LIBERTY PLACE PHILADELPHIA PA 19103-7301



DATE MAILED:

07/16/98

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks



Office Action Summary

Application No. 09/028,871

Applicant(s)

Gans

Examiner

Phyllis G. Spivack

Group Art Unit 1614



| Responsive to communication(s) filed on | · | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|--|--|
| ☐ This action is FINAL . | | | |
| ☐ Since this application is in condition for allowance except in accordance with the practice under <i>Ex parte Quayle</i> , 1 | 935 C.D. 11; 453 O.G. 213. | | |
| A shortened statutory period for response to this action is set is longer, from the mailing date of this communication. Failuapplication to become abandoned. (35 U.S.C. § 133). Exte 37 CFR 1.136(a). | ire to respond within the period for response will cause the | | |
| Disposition of Claims | | | |
| X Claim(s) 1-9 | | | |
| | is/are withdrawn from consideration. | | |
| Claim(s) | is/are allowed. | | |
| X Claim(s) 1-9 | | | |
| Claim(s) | is/are objected to. | | |
| ☐ Claims are subject to restriction or election requiremen | | | |
| Application Papers See the attached Notice of Draftsperson's Patent Drag The drawing(s) filed on is/are ob The proposed drawing correction, filed on The specification is objected to by the Examiner. The oath or declaration is objected to by the Examine Priority under 35 U.S.C. § 119 Acknowledgement is made of a claim for foreign prio All Some* None of the CERTIFIED copie received. received in Application No. (Series Code/Serial received in this national stage application from *Certified copies not received: Acknowledgement is made of a claim for domestic priority. | r. rity under 35 U.S.C. § 119(a)-(d). es of the priority documents have been Number) the International Bureau (PCT Rule 17.2(a)). | | |
| Attachment(s) Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-152 | | | |
| SEE OFFICE ACTION | ON THE FOLLOWING PAGES | | |

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Serial Number: 09/028871

Art Unit: 1614

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuisz, U.S. Patent No. 5,518,730, particularly in view of Williams et al., The Lancet.

Fuisz teaches the administration of a controlled release oral dosage form comprising tetracycline. See column 1, lines 25-26, where the minimization or elimination of side effects is disclosed. Fuisz does not focus on the specific vestibular side effects associated with tetracycline administration. Williams teaches the occurrence of vestibular side effects, as vertigo or dizziness, following tetracycline, specifically minocycline, administration. Therefore, in view of the combined teachings of Fuisz and Williams, one having ordinary skill in the art would have been motivated to administer a slowly dissolving, or controlled release formulation of tetracycline in the treatment of acne. Such would have been obvious in the absence of evidence to the contrary because Fuisz teaches a decreased incidence of side effects when a drug entity is released by controlled means. Thus it would have been reasonable to expect the occurrence of vestibular side effects to be reduced following tetracycline therapy by controlled release.

No claim is allowed.

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Applicant is encouraged to submit an information disclosure statement, if one is contemplated, as soon as possible.

Any inquiry concerning this communication should be directed to Phyllis Spivack at telephone number (703) 308-4703.

July 14, 1998

PHYLLIS SPIVACK PRIMARY EXAMINER

Phyllis Spwack